

2

March 25, 2002, continued

We concur: Davis, Acting P.J.
Nicholson, J.

We concur: Davis, Acting P.J.
Nicholson, J.

We concur: Blease, Acting P.J.
 Nicholson, J.

There is no change in the judgment. (California Rules of Court, rule 24(b).)
NICHOLSON, Acting P.J.

SCOTLAND, P.J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

3

The Minutes

March 26, 2002

- C037753 THE PEOPLE v. GATHINGS (Not for Publication)**
We vacate the 10-year upper term for the section 12022.5, subdivision (a) (1) sentence enhancement. We affirm the judgment in all other respects. The matter is remanded to the trial court for resentencing.
RAYE, J.
I concur: Davis, J.
...I write separately to emphasize that our decision does not preclude reimposition of the upper term if, at the new sentencing hearing, the trial court finds the upper term is appropriate based upon some other circumstance, such as the manner in which the gun was actually used, that constitutes a proper aggravating factor.
Scotland, P.J.
- C037898 THE PEOPLE v. ARNOLD (Not for Publication)**
The judgment is reversed and remanded to the trial court to recalculate defendant's custody credits. The court shall include any additional credit attributable solely to the conduct in the instant case (see *People v. Bruner* (1995) 9 Cal.4th 1178, 1193-1194), that was accrued through October 21, 1997. The trial court shall then enter an amended abstract of judgment and forward a copy of the same to the Department of Corrections.
BLEASE, Acting P.J.
I concur: Nicholson, J.
For the reasons stated in *People v. Burks* (1989) 66 Cal.App.4th 232, I respectfully dissent in this case...
Callahan, J.
- C038849 THE PEOPLE v. FORD (Not for Publication)**
The judgment is affirmed. However, the trial court should correct the abstract of judgment to reflect that defendant was convicted of continuous sexual abuse of a child under age 14 and should deliver a certified copy of the amended abstract to the Department of Corrections.
KOLKEY, J.
We concur: Sims, Acting P.J.
Callahan, J.
- C039073 THE PEOPLE v. LEONARD (Not for Publication)**
The order extending defendant's SVPA commitment until August 14, 2001, is affirmed.
ROBIE, J.
We concur: Blease, Acting P.J.
Raye, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

4

The Minutes

March 26, 2002, continued

- C039218 THE PEOPLE v. COON (Not for Publication)**
The judgment is affirmed.
 NICHOLSON, J.
We concur: Davis, Acting P.J.
 Callahan, J.
- C038564 KELLY et al. v. BAKOTICH et al. (Not for Publication)**
C038905 The judgment of dismissal against the Kellys is modified to be without prejudice.
As modified, the judgment is affirmed. The order denying the motion to vacate
the dismissal is affirmed. The parties shall pay their own costs on appeal.
 RAYE, J.
We concur: Scotland, P.J.
 Blease, J.
- C039041 DE URIOSTE (O'DONNELL) v. DE URIOSTE (Not for Publication)**
The judgment is affirmed. Respondent shall recover her costs on appeal. (Cal.
Rules of Court, rule 26(a).)
 NICHOLSON, J.
We concur: Blease, Acting P.J.
 Sims, J.
- C036430 In re CHRYSTIAN M. et al.; DEPARTMENT OF EMPLOYMENT AND SOCIAL
SERVICES v. AVA M. (Not for Publication)**
The judgment of disposition is affirmed.
 MORRISON, J.
We concur: Sims, Acting P.J.
 Davis, J.
- C037578 In re TRAVIS E.; THE PEOPLE v. TRAVIS E. (Not for Publication)**
The judgment is affirmed.
 KOLKEY, J.
We concur: Sims, Acting P.J.
 Callahan, J.
- C038331 In re L.S.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND
C039385 HUMAN SERVICES v. W.S. (Not for Publication)**
The orders of the juvenile court are affirmed.
 RAYE, J.
We concur: Blease, Acting P.J.
 Robie, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

5

The Minutes

March 27, 2002

- C036126 THE PEOPLE v. STEVENSON (Not for Publication)**
The judgment is affirmed.
 HULL, J.
We concur: Sims, Acting P.J.
 Morrison, J.
- C036189 THE PEOPLE v. MEDEIROS (Not for Publication)**
The judgment is affirmed.
 SCOTLAND, P.J.
We concur: Blease, J.
 Raye, J.
- C037138 THE PEOPLE v. DANIELS (Not for Publication)**
The judgment is affirmed.
 NICHOLSON, J.
We concur: Davis, Acting P.J.
 Morrison, J.
- C037585 THE PEOPLE v. PLUE (Not for Publication)**
The judgment is reversed and the cause is remanded to the trial court. Upon motion by defendant within 30 days of the date on which this opinion is final, the trial court shall vacate defendant's guilty plea. Upon a subsequent motion by the People, the trial court shall reinstate any charges covered by the negotiated plea agreement, including any charges dismissed under the agreement. The case shall then proceed to trial or other appropriate disposition in accordance with the views expressed in this opinion.
- Should defendant not move to withdraw his plea, the trial court shall reinstate the judgment.
 ROBIE, J.
We concur: Blease, Acting P.J.
 Hull, J.
- C037808 THE PEOPLE v. ELDRIDGE (Not for Publication)**
The judgment is modified by reducing the restitution fine (§ 1202.4) to \$200 and the corresponding parole revocation fine (§ 1202.45) to the same amount. As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to forward a certified copy to the Department of Corrections.
 KOLKEY, J.
We concur: Sims, Acting P.J.
 Callahan, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

6

The Minutes

March 27, 2002, continued

- C038758 THE PEOPLE v. CAMP (Not for Publication)**
The order striking the findings that defendant suffered six prior serious felony convictions is reversed. The case is remanded to the trial court with directions to vacate the dismissal of the six prior serious felony convictions and to resentence defendant in accordance with the views expressed in this opinion. The judgment is otherwise affirmed.
KOLKEY, J.
I concur: Callahan, J.
I concur in the result:
Sims, Acting P.J.
- C039028 THE PEOPLE v. HERNANDEZ (Not for Publication)**
The trial court is directed to prepare a corrected abstract of judgment reflecting that defendant was sentenced as a two-strike offender, the proper allocation of the \$1,323 fine, and the order to register as a narcotics offender under Health and Safety Code section 11590. The trial court shall forward a certified copy to the Department of Corrections. The judgment is affirmed.
CALLAHAN, J.
We concur: Davis, Acting P.J.
Nicholson, J.
- C039106 THE PEOPLE v. SWAIN (Not for Publication)**
The order dismissing the information is reversed and the matter is remanded to the trial court for further proceedings.
CALLAHAN, J.
We concur: Scotland, P.J.
Robie, J.
- C039138 THE PEOPLE v. POLAND (Not for Publication)**
The conviction is affirmed. The order of probation is vacated, and the matter is remanded to the trial court for resentencing in accordance with the provisions of section 1210.1.
SCOTLAND, P.J.
We concur: Sims, J.
Morrison, J.
- C034357 ESS v. ESKATON PROPERTIES, INC. et al. (Certified for Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We concur: Davis, J.
Nicholson, J.

7

We concur: Scotland, P.J.
Nicholson, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

8

The Minutes

March 28, 2002, continued

- C037099 THE PEOPLE v. LEONARD (Not for Publication)**
This appeal is dismissed as a non-appealable order.
BLEASE, Acting P.J.
We concur: Davis, J.
 Callahan, J.
- C037576 THE PEOPLE v. DELGADILLO (Not for Publication)**
The judgment (order of probation) is affirmed. The trial court shall prepare an amended order of probation which shall include the \$135 fee and penalty assessments under Health and Safety Code section 11372.5. The court shall send a certified copy of the amended order of probation to the defendant and his probation officer.
ROBIE, J.
We concur: Blease, Acting P.J.
 Raye, J.
- C037760 THE PEOPLE v. BROWN (Not for Publication)**
The judgment is affirmed.
NICHOLSON, J.
We concur: Blease, Acting P.J.
 Davis, J.
- C039153 THE PEOPLE v. TIMMONS (Not for Publication)**
The judgment is affirmed. The trial court is directed to prepare a corrected abstract of judgment reflecting that defendant was sentenced as a two-strike defendant and was ordered to register as a narcotics offender. The trial court is further ordered to forward a certified copy of the corrected abstract to the Department of Corrections.
SIMS, J.
We concur: Scotland, P.J.
 Davis, J.
- C032965 C&S REAL ESTATE GROUP, INC. v. RAMIREZ (Not for Publication)**
The judgment is reversed. Defendant Ramirez shall recover his costs on appeal.
SIMS, J.
I concur: Scotland, P.J.
I concur that this court...
 Kolkey, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

9

The Minutes

March 28, 2002, continued

- C035752 PRISELER v. CALFARM INSURANCE COMPANY**
(Not for Publication)
The judgment is affirmed. Defendant is awarded its costs on appeal.
HULL, J.
We concur: Sims, Acting P.J.
 Morrison, J.
- C036324 JAMES v. JAMES**
(Not for Publication)
The judgment is affirmed. Respondent is awarded her costs on appeal. (Cal. Rules of Court, rule 26(a).)
BLEASE, Acting P.J.
We concur: Davis, J.
 Raye, J.
- C036399 DODDS v. WAXER et al.**
(Not for Publication)
The judgment is affirmed.
CALLAHAN, J.
I concur: Sims, J.
I agree with my colleagues that the judgment in favor of defendants must be affirmed...
Scotland, P.J.
- C037690 TORRES-GIL v. WRIGHT, SR.**
(Not for Publication)
The judgment is reversed. Torres-Gil is to recover costs on appeal. (Cal. Rules of Court, rule 26.)
SIMS, Acting P.J.
We concur: Davis, J.
 Morrison, J.
- C039614 STATE WATER RESOURCES CONTROL BOARD v. THE SUPERIOR
COURT OF YUBA COUNTY and BROWNS VALLEY IRRIGATION DISTRICT
et al.**
(Not for Publication)
Let a peremptory writ of mandate issue directing respondent superior court to vacate its order of October 3, 2001, granting the motion to disqualify the AG; to reconsider the motion, taking into account whether DF&G has retained counsel to substitute for the AG to represent DF&G in the underlying proceedings; and to take further action consistent with the views expressed in this opinion.

Upon finality of this opinion, the stay of further proceedings in respondent superior court is vacated. The parties shall bear their own costs in this writ proceeding. (Cal. Rules of Court, rule 56.4(a).)
SCOTLAND, P.J.
We concur: Sims, J.
 Robie, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

10

The Minutes

March 28, 2002, continued

- C040206 JUDITH N. v. THE SUPERIOR COURT OF SACRAMENTO COUNTY and
SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN
SERVICES et al. (Not for Publication)**
The petition is denied. The request for stay is denied as moot.
SIMS, Acting P.J.
We concur: Morrison, J.
Callahan, J.
- C039347 In re D.D.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND
HUMAN SERVICES v. MOTHER OF D.D. (Not for Publication)**
The order terminating appellant's parental rights is vacated and the matter is
remanded for a new section 366.26 hearing after appellant is provided proper
notice consistent with statutory requirements and due process.
HULL, J.
We concur: Blease, Acting P.J.
Robie, J.

March 29, 2002

- C033436 THE PEOPLE v. JALLAD (Not for Publication)**
The judgment is affirmed.
HULL, J.
We concur: Scotland, P.J.
Sims, J.
- C035236 THE PEOPLE v. WILLIAMS (Not for Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We concur: Sims, J.
Callahan, J.
- C035421 THE PEOPLE v. LOYOLA (Not for Publication)**
The judgment is modified to impose a \$200 restitution fine (§ 1202.4) and a
\$200 restitution fine suspended unless parole is revoked (§ 1202.45). As so
modified, the judgment is affirmed.
BLEASE, Acting P.J.
We concur: Davis, J.
Nicholson, J.

11

March 29, 2002, continued

We concur: Nicholson, J.
 Morrison, J.

We concur: Blease, Acting P.J.
 Morrison, J.